

**MILITARY COMMISSIONS TRIAL JUDICIARY
GUANTANAMO BAY, CUBA**

UNITED STATES OF AMERICA v. ABD AL HADI AL-IRAQI	AE 110F SECOND AMENDED LITIGATION SCHEDULE 18 January 2019
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1. The following deadlines are hereby ordered:

a. The Government will provide a copy of the witness and exhibit list provided to the Defense on 21 December 2018 to the Commission not later than **25 January 2019**.

b. Motions from either Party to compel discovery, witnesses, evidence, or other precursory motions necessary for the litigation of anticipated evidentiary motions are due to the Commission and opposing counsel not later than **6 February 2019**. Responses and replies are due in accordance with Rule of Court (RC) 3.7. These motions will be litigated during the 4 – 8 March 2019 session. The parties will also provide notice to the Commission and opposing counsel of the evidentiary motions they intend to file not later than **6 February 2019**.

c. All evidentiary motions, including motions *in limine*, are due to the Commission and opposing counsel not later than **7 June 2019**. Responses and replies are due in accordance with RC 3.7. Evidentiary motions not involving the presentation of classified evidence or argument will be litigated during the 11 – 19 July 2019 session, and continued into the 19 – 28 August 2019 session as required.

d. Not later than **7 June 2019**, the Defense shall provide notice pursuant to Military Commission Rule of Evidence (M.C.R.E.) 505(g)(1)(A) of any classified information they reasonably expect to disclose, or cause disclosure of in connection with the litigation of evidentiary motions. Not later than **7 June 2019**, the Government shall provide notice of its

intent to use any classified information pursuant to M.C.R.E. 505(h)(2)(A); any summarized, substituted, or redacted material; or any evidence for which it intends to use a substituted evidentiary foundation in litigating the evidentiary motions filed. Any responses to notices or requests for M.C.R.E. 505(h)(1)(A) hearings by either party are due no later than **14 June 2019**. Any issues concerning the disclosure of classified information during the litigation of evidentiary motions will be litigated during the 13-16 August 2019 session in a suitable Sensitive Compartmented Information Facility (SCIF) in the National Capital Region. The Government will provide notice to the Commission and the Defense of the location of the SCIF no later than **31 July 2019**.

e. Not later than **24 July 2019**, the Defense shall provide its list of trial witnesses for findings, including fact and expert witnesses, and exhibits to the Government, including all requests for assistance in obtaining witnesses. The Defense will provide the Commission a copy of the witness and exhibit lists not later than **24 July 2019**. In addition, the Defense will provide the Government and the Commission notice of any affirmative defenses by this date.

Government responses to Defense witness requests are due not later than **14 August 2019**.

f. Defense motions to compel witnesses for trial are due not later than **5 September 2019**. Responses and replies are due in accordance with RC 3.7. Motions to compel witnesses for trial will be litigated during the 7 – 11 October 2019 session.

g. Not later than **12 September 2019**, the Defense shall provide notice pursuant to M.C.R.E. 505(g)(1)(A) of any classified information they reasonably expect to disclose, or cause disclosure of, at trial. No later than **12 September 2019**, the Government shall provide notice of its intent to use in its case-in-chief: any classified information pursuant to M.C.R.E. 505(h)(2)(A); any summarized, substituted, or redacted material; or any evidence for which it intends to use a substituted evidentiary foundation. Any responses to notices or requests for

M.C.R.E. 505(h)(1)(A) hearings by either party are due not later than **26 September 2019**. Any issues concerning the disclosure of classified information during trial will be litigated during the 30 September – 4 October 2019 session in a suitable SCIF previously identified by the Government in the National Capital Region.

h. The Parties will jointly file a notice to the Commission of agreed upon preliminary and findings instructions to the panel not later than **11 November 2019**. The Parties will file any motions for additional instructions to the panel on preliminary matters or on findings not later than **11 November 2019**. Responses and replies are due in accordance with RC 3.7. Motions pertaining to instructions to the panel will be litigated during the 9 – 13 December 2019 session.

i. The Parties will jointly file a notice to the Commission of agreed upon group *voir dire* questions not later than **11 November 2019**. The Parties will file any motions proposing any additional group *voir dire* questions not later than **11 November 2019**. Responses and replies are due in accordance with RC 3.7. Motions requesting additional group *voir dire* questions will be litigated during the 9 – 13 December 2019 session.

j. Not later than **11 November 2019** the Parties will file an appropriate motion with proposed court member screening questions for primary and alternate panel members to be incorporated into the panel member questionnaire. Responses and replies are due in accordance with RC 3.7. These motions will be litigated during the 9 – 13 December 2019 session.

k. The Government will publish an amended convening order not later than **20 January 2020**.

l. The Government will provide the Defense copies of court member questionnaires for primary and alternate members listed on the amended convening order and additional members identified as being in the pool of members selected as additional alternates but not listed on the amended convening order, if any, not later than **25 January 2020**.

m. Assembly of the Commission pursuant to R.M.C. 911 will occur on **19 February 2020**.

2. Requests for deviations from the timelines for submission of motions or other filings

established by this order must be submitted not later than 20 calendar days prior to the date

established herein. The parties will anticipate their requirements, and file appropriate motions as

necessary to allow for follow-on actions to be litigated and completed before filing deadlines

(e.g., if a party anticipates expert assistance is needed to draft a motion to suppress, the party

shall request the expert in a timely manner to meet deadlines). Failure to comply with the

deadlines in this paragraph may only be excused for good cause.

So **ORDERED** this 18th day of January, 2019.

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M. D. LIBRETTO

Lt Col, USMC

Military Judge